

110TH CONGRESS
2D SESSION

H. R. 6258

To accelerate the development and early deployment of systems for the capture and storage of carbon dioxide emissions from fossil fuel electric generation facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2008

Mr. BOUCHER (for himself, Mr. UPTON, Mr. MURTHA, Mr. BARTON of Texas, Mr. RAHALL, Mr. WHITFIELD of Kentucky, Mr. COSTELLO, Mr. SHIMKUS, Mr. MATHESON, Mr. DOYLE, Mr. HOLDEN, Mr. ELLSWORTH, Mr. HILL, Mr. WILSON of Ohio, and Ms. PRYCE of Ohio) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To accelerate the development and early deployment of systems for the capture and storage of carbon dioxide emissions from fossil fuel electric generation facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Carbon Capture and
5 Storage Early Deployment Act”.

1 **SEC. 2. DEFINITIONS.**

2 (1) SECRETARY.—The term “Secretary” means
3 the Secretary of Energy.

4 (2) DISTRIBUTION UTILITY.—The term “dis-
5 tribution utility” means an electric utility that has
6 a legal, regulatory, or contractual obligation to de-
7 liver electricity directly to retail consumers.

8 (3) ELECTRIC UTILITY.—The term “electric
9 utility” has the meaning provided by section 3(22)
10 of the Federal Power Act (16 U.S.C. 796(22)).

11 (4) FOSSIL FUEL-BASED ELECTRICITY.—The
12 term “fossil fuel-based electricity” means electricity
13 that is produced from the combustion of fossil fuels.

14 (5) FOSSIL FUEL.—The term “fossil fuel”
15 means coal, petroleum, natural gas or any derivative
16 of coal, petroleum, or natural gas.

17 (6) CORPORATION.—The term “Corporation”
18 means the Carbon Storage Research Corporation es-
19 tablished in accordance with this Act.

20 (7) QUALIFIED INDUSTRY ORGANIZATION.—The
21 term “qualified industry organization” means any
22 association or group of owners or operators of dis-
23 tribution utilities delivering fossil fuel-based elec-
24 tricity who collectively represent at least 20 percent
25 of the volume of fossil fuel-based electricity delivered

1 by distribution utilities to consumers in the United
2 States.

3 **SEC. 3. CARBON STORAGE RESEARCH CORPORATION.**

4 (a) ESTABLISHMENT.—Qualified industry organiza-
5 tions may conduct, at their own expense, a referendum
6 among the owners or operators of distribution utilities de-
7 livering fossil fuel-based electricity for the creation of a
8 Carbon Storage Research Corporation. Such referendum
9 shall be conducted by an independent auditing firm agreed
10 to by the qualified industry organizations. Voting rights
11 in such referendum shall be based on the quantity of fossil
12 fuel-based electricity delivered to consumers in the pre-
13 vious calendar year or other representative period. Upon
14 approval of those persons representing two-thirds of the
15 total quantity of fossil fuel-based electricity delivered to
16 retail consumers, the Corporation shall be established. All
17 distribution utilities voting in the referendum shall certify
18 to the independent auditing firm the quantity of fossil
19 fuel-based electricity represented by their vote.

20 (b) TERMINATION.—The Corporation shall be au-
21 thorized to collect assessments and conduct operations
22 pursuant to this Act for a 10-year period from the date
23 6 months after the date of enactment of this Act. After
24 such 10-year period, the Corporation is no longer author-
25 ized to collect assessments and shall be dissolved on the

1 date 15 years after such date of enactment, unless the
2 period is extended by an Act of Congress.

3 (c) GOVERNANCE.—The Corporation shall operate as
4 a division or affiliate of the Electric Power Research Insti-
5 tute (EPRI) and be managed by a Board of not more than
6 12 members responsible for its operations, including com-
7 pliance with this Act. The Institute, working in consulta-
8 tion with industry organizations representing investor-
9 owned utilities, utilities owned by a Federal or State agen-
10 cy or municipality, and rural electric cooperatives, shall
11 appoint the Board. The Board shall include at least one
12 representative of each of the following:

13 (1) Investor-owned utilities.

14 (2) Utilities owned by a Federal or State agen-
15 cy or a municipality.

16 (3) Rural electric cooperatives.

17 (4) Fossil fuel producers.

18 (d) COMPENSATION.—Corporation Board members
19 shall receive no compensation for their services, nor shall
20 Corporation Board members be reimbursed for expenses
21 relating to their service.

22 (e) TERMS.—Corporation Board members shall serve
23 terms of 4 years and may serve not more than 2 full con-
24 secutive terms. Members filling unexpired terms may serve
25 not more than a total of 8 consecutive years. Former

1 members of the Corporation Board may be reappointed
2 to the Corporation Board if they have not been members
3 for a period of 2 years. Initial appointments to the Cor-
4 poration Board shall be for terms of 1, 2, 3, and 4 years,
5 staggered to provide for the selection of 3 members each
6 year.

7 (f) STATUS OF CORPORATION.—The Corporation
8 shall not be considered to be an agency, department, or
9 instrumentality of the United States, and no officer or di-
10 rector or employee of the Corporation shall be considered
11 to be an officer or employee of the United States Govern-
12 ment, for purposes of title 5 or title 31 of the United
13 States Code, or for any other purpose, and no funds of
14 the Corporation shall be treated as public money for pur-
15 poses of chapter 33 of title 31, United States Code, or
16 for any other purpose.

17 **SEC. 4. FUNCTIONS AND ADMINISTRATION OF THE COR-**
18 **PORATION.**

19 (a) IN GENERAL.—Except as provided in subsection
20 (d), the Corporation shall use all funds derived from as-
21 sessments under section 5 to issue grants and contracts
22 to private, academic, and governmental entities with the
23 purpose of accelerating the commercial demonstration or
24 availability of carbon dioxide capture and storage tech-
25 nologies and methods, including technologies which cap-

ture and store, or capture and convert, carbon dioxide. Grants and awards shall be made on a competitive basis reflecting best overall value and prospect for achieving the purposes of this Act. Board Members shall not participate in making grants or awards to entities with whom they are affiliated. The Corporation may use such funds to purchase carbon dioxide through reverse auctions or other acquisition methods, when needed to conduct tests of carbon dioxide storage sites, in the case of established projects that are storing carbon dioxide emissions or for other purposes consistent with the purposes of this Act. The Corporation shall support large-scale demonstrations of carbon capture and Storage technologies capable of advancing the technologies to commercial readiness. Pilot-scale and similar small-scale projects are not eligible for support by the Corporation. Supported projects should encompass a range of different coal and other fossil fuel varieties, be geographically diverse, involve diverse storage media, and employ capture and storage, or capture and conversion, technologies potentially suitable either for new or for retrofit applications. The Board shall also establish policies regarding the ownership of intellectual property developed as a result of Corporation grants and other forms of technology support. Such policies shall encourage individual ingenuity and invention.

1 (b) RELATIONSHIP TO DEPARTMENT OF ENERGY
2 AND ACADEMIC ORGANIZATIONS.—The Board may ap-
3 prove grants or contracts to support programs or projects
4 under the auspices of the Department of Energy or its
5 affiliated national laboratories and other fossil energy re-
6 search entities, including the Regional Carbon Sequestra-
7 tion Partnerships, where such support promises to accel-
8 erate the commercial development and demonstration of
9 carbon capture and storage, or carbon capture and conver-
10 sion, technologies. Grant and contract support also may
11 be provided to projects or programs managed by academic
12 organizations or consortia, where such support promises
13 to accelerate the commercial development and demonstra-
14 tion of carbon capture and storage technologies.

15 (c) ADMINISTRATION.—The members of the Board of
16 Directors of the Corporation shall elect a Chairman and
17 other officers as necessary, may establish committees and
18 subcommittees of the Corporation, and shall adopt rules
19 and bylaws for the conduct of business and the implemen-
20 tation of this Act. The Corporation Board shall consult
21 with the Electric Power Research Institute Advisory Coun-
22 cil and the Secretary and the Director of the Department's
23 National Energy Technology Laboratory to obtain advice
24 and recommendations on plans, programs, project selec-
25 tion criteria, and projects to be funded by the Corporation.

1 The Board shall appoint an Executive Director and pro-
2 fessional support staff who may be employees of the Elec-
3 tric Power Research Institute.

4 (d) ADMINISTRATIVE EXPENSES.—Up to 5 percent
5 of the funds collected in any fiscal year under section 5
6 may be used for the administrative expenses of operating
7 the Corporation (not including costs incurred in the deter-
8 mination and collection of the assessments pursuant to
9 section 5).

10 (e) BUDGET.—Before August 1 each year, the Cor-
11 poration shall publish for public review and comment a
12 budget plan for the next calendar year, including the prob-
13 able costs of all programs, projects, and contracts and a
14 recommended rate of assessment sufficient to cover such
15 costs. The Secretary may recommend programs and activi-
16 ties the Secretary considers appropriate.

17 (f) RECORDS; AUDITS.—The Corporation shall keep
18 minutes, books, and records that clearly reflect all of the
19 acts and transactions of the Corporation and make public
20 such information. The books of the Corporation shall be
21 audited by a certified public accountant at least once each
22 fiscal year and at such other times as the Corporation may
23 designate. Copies of each audit shall be provided to the
24 Congress, all members of the Corporation, all qualified in-
25 dustry organizations, and to other members of the indus-

1 try upon request. If the audit determines that the Cor-
2 poration's practices fail to meet generally accepted ac-
3 counting principles the assessment collection authority of
4 the Corporation under section 5 shall be suspended until
5 a certified public accountant renders a subsequent opinion
6 that the failure has been corrected.

7 (g) PUBLIC ACCESS.—(1) The Corporation Board's
8 meetings shall be open to the public and shall occur after
9 at least 30 days advance public notice. Meetings of the
10 Board of Directors may be closed to the public where the
11 agenda of such meetings includes only confidential matters
12 pertaining to project selection, the award of grants or con-
13 tracts, personnel matter, or the receipt of legal advice.

14 (2) The minutes of all meetings of the Corporation
15 shall be made available to and readily accessible by the
16 public.

17 (h) ANNUAL REPORT.—Each year the Corporation
18 shall prepare and make publicly available a report which
19 includes an identification and description of all programs
20 and projects undertaken by the Corporation during the
21 previous year as well as those planned for the coming year.
22 The report shall also detail the allocation or planned allo-
23 cation of Corporation resources for each such program
24 and project.

1 **SEC. 5. ASSESSMENTS.**

2 (a) AMOUNT.—(1) In all calendar years following its
 3 establishment, the Corporation shall collect an assessment
 4 on distribution utilities for all fossil fuel-based electricity
 5 delivered directly to retail consumers. The assessments
 6 shall reflect the relative carbon dioxide emission rates of
 7 different fossil fuel-based electricity, and initially shall be
 8 not less than the following amounts for coal, natural gas,
 9 and oil:

Fuel type:	Rate of assessment per kilowatt hour:
Coal	\$0.00043
Natural Gas	\$0.00022
Oil	\$0.00032

10 (2) The Corporation is authorized to adjust the as-
 11 sessments on fossil fuel-based electricity to reflect changes
 12 in the expected quantities of such electricity from different
 13 fuel types, such that the assessments generate not less
 14 than \$1.0 billion and not more than \$1.1 billion annually.
 15 The Corporation is authorized to supplement assessments
 16 through additional financial commitments.

17 (b) INVESTMENT OF FUNDS.—Pending disbursement
 18 pursuant to a program, plan, or project, the Corporation
 19 may invest funds collected through assessments under this
 20 section, and any other funds received by the Corporation,
 21 only in obligations of the United States or any agency
 22 thereof, in general obligations of any State or any political
 23 subdivision thereof, in any interest-bearing account or cer-

1 tificate of deposit of a bank that is a member of the Fed-
2 eral Reserve System, or in obligations fully guaranteed as
3 to principal and interest by the United States.

4 (c) REVERSION OF UNUSED FUNDS.—If the Cor-
5 poration does not disburse, dedicate or assign 75 percent
6 or more of the available proceeds of the assessed fees in
7 any calendar year 7 or more years following its establish-
8 ment, due to an absence of qualified projects or similar
9 circumstances, it shall reimburse the remaining undedicat-
10 ed or unassigned balance of such fees, less administrative
11 and other expenses authorized by this Act, to the distribu-
12 tion utilities upon which such fees were assessed, in pro-
13 portion to their collected assessments.

14 **SEC. 6. COMPLIANCE WITH CORPORATION ASSESSMENTS.**

15 The Corporation may bring an action in the appro-
16 priate court of the United States to compel compliance
17 with an assessment levied by the Corporation under this
18 Act. A successful action for compliance under this section
19 may also require payment by the defendant of the costs
20 incurred by the Corporation in bringing such action.

21 **SEC. 7. MIDCOURSE REVIEW.**

22 Not later than 5 years following establishment of the
23 Corporation, the Comptroller General of the United States
24 shall prepare an analysis, and report to Congress, assess-
25 ing the Corporation's activities, including project selection

1 and methods of disbursement of assessed fees, impacts on
2 the prospects for commercialization of carbon capture and
3 storage technologies, and adequacy of funding. The report
4 shall also make such recommendations as may be appropriate in each of these areas. The Corporation shall reimburse the Government Accountability Office for the costs
5 associated with performing this midcourse review.

6 **SEC. 8. RECOVERY OF COSTS.**

7 (a) IN GENERAL.—All costs that are incurred by a
8 distribution utility to comply with the requirements of this
9 Act shall be deemed necessary and reasonable costs and
10 shall be fully and contemporaneously recoverable in all jurisdictions. A distribution utility whose transmission, delivery, or sales of electric energy are subject to any form
11 of rate regulation shall not be denied the opportunity to
12 recover the full amount of the costs associated with complying with this Act, notwithstanding any other law, regulation, rule, administrative order, or any agreement, including any settlement agreement, between the distribution utility and any regulatory authority, including any
13 State regulatory authority, or any other party.

14 (b) RATEPAYER REBATES.—Regulatory authorities
15 that approve cost recovery pursuant to section 8(a) may
16 order rebates to ratepayers to the extent that distribution

1 utilities are reimbursed undedicated or unassigned bal-
2 ances pursuant to section 5(c).

3 **SEC. 9. LOBBYING RESTRICTIONS.**

4 No funds collected by the Corporation shall be used
5 in any manner for influencing legislation or elections, ex-
6 cept that the Corporation may recommend to the Sec-
7 retary and the Congress changes in this Act or other stat-
8 utes that would further the purposes of this Act.

9 **SEC. 10. DAVIS-BACON COMPLIANCE.**

10 The Corporation shall ensure that entities receiving
11 grants, contracts, or other financial support from the Cor-
12 poration for the project activities authorized by this Act
13 are in compliance with the Davis-Bacon Act (40 U.S.C.
14 276a—276a-5).

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